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provision has accordingly been made in this year's budget to the extent of Rs. 40,000. But, since the Act has not been amended up till now, the question of providing a separate vigilance home was not taken up by the Government. Another reason is that it is not easy to find buildings in these days and Government will try to provide a separate house taken on rent for these women at the earliest opportunity, if we are not able to build a separate building for this purpose and to implement the provisions of this Act. I can assure the lady members that as soon as such a building is found out, they will not be kept in the same home as the minor children are kept. I have seen the present home myself in Madras. It is unthinkable to put people into it. Already it is overcrowded and there is hardly room for 60 but more than 160 or 170 women are there huddled together and the women convicted under this Act will not be put along with them.

" So far as the provincialization of the women's association is concerned, Government have already passed orders about the provincialization and details are being worked out. As I said before, the existing institutions belong to private associations. We are already working a scheme even now for the provincialization of not only the Rescue Homes but also the Vigilance Associations. The chief difficulty has been want of proper building for such institutions. We are proceeding actively with the details of provincialization and I can assure hon. Members that as soon as the arrangements are ready, they will be provincialized."

MR. PRESIDENT :—" The question is that the Bill further to amend the Madras Suppression of Immoral Traffic Act, 1930, be taken into consideration."

The motion was put and carried.

Clauses 2 to 5 were then put one by one and carried.

Clause 1 and the Preamble were put and carried.

THE HON. SRI K. MADHAVA MENON :—" I now move—
'that the Bill be passed into law.' "

MR. PRESIDENT :—" The question is that the Bill further to amend the Madras Suppression of Immoral Traffic Act, 1930, be passed into law."

The motion was put and carried and the Bill was passed into law.

(4) THE MADRAS DEVADASIS (PREVENTION OF DEDICATION) BILL, 1947 (L.A. BILL NO. 21 OF 1947).

THE HON. DR. P. SUBBARAYAN :—" I move, Sir—

3-30 p.m. *' that the Madras Devadasis (Prevention of Dedication) Bill,*[a] *1947 (L.A. Bill No. 21 of 1947) as passed by the Legislative Assembly be taken into consideration at once.'*

" Sir, this legislation has a long history behind it. It was in the year 1928 that my friend, Dr. Muthulakshmi Reddi, introduced a measure of this kind, but as I said in the other House,

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[a] Printed as Appendix IV on pages 127–128 infra.

this Bill has had a rather chequered career, because it has always been usual for something to happen soon after the introduction of this measure. Then came Gandhiji's arrest after the introduction of this Bill and Dr. Muthulakshmi who felt keenly on the way the Government had acted, resigned her membership of the Legislative Council and a difficulty arose and the Bill lapsed. The question was not thought of till the new Congress Ministry came into being in the year 1937, when through the efforts of Dr. Muthulakshmi, who was naturally keen on this measure—and she had the support of the community behind it for passing such a measure—had this Bill introduced by Mrs. Ammanna Raja and this again unfortunately met with the same fate, because after the Bill had been before the Select Committee, and the Select Committee of which I was the Chairman had reported, came the Second World War and the treatment of India by His Majesty's Government which made the Congress Ministry quit office. So, it had to wait till again it was taken over by the present Government and introduced into the Legislative Assembly but fortunately, it seems to have a better course than the other two measures had. I am here to pay my tribute to Dr. Muthulakshmi Reddi for the incessant efforts she has made and for the persistence with which she has tried to get this measure passed. She has had conferences of these communities and they have welcomed that as a whole.

" Sir, there is another measure which has been incorporated in this and that is the Bill given notice of by Srimathi Sitamahalakshmamma in the Legislative Assembly with regard to a practice that exists in the Circars, known as Bogum-melam. That has also been introduced into this measure to see that this measure applies not only to the south but also to the Circars and other places where this practice is prevailing. It is a comprehensive measure and I think it will include what Dr. Muthulakshmi Reddi had in mind at the time she introduced her measure. At the same time the Government have taken care to see that the advancement of the art in which the Government are as much interested as the people, is not affected by this measure. So, amateur performance of Bharata Natyam and performances of people of this art are not prevented by this measure."

MR. PRESIDENT :—" If I may just interrupt the Hon. Minister, section 3, sub-clause (3) prevents dancing only at a festival or ceremony held in respect of such a deity, idol or object of worship, but Bogum-melam it does not prevent, for instance Bogum-melam in a marriage party."

THE HON. DR. P. SUBBARAYAN :—" No, Sir, it is not prevented, but in the copy of the measure, it is said ' any ceremony ' . . . ."

MR. PRESIDENT :—" It is stated, ceremony connected with a deity."

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THE HON. DR. P. SUBBARAYAN :—" No, Sir, in section 3 (2) you will find : ' Any custom or usage prevailing in any Hindu community such as Bogum, Kalavanthula, Sani, Nagavasulu, Devadasi and Kurmapulu, that a woman of that community who gives or takes part in any mela (nautch), dancing or music performance in the course of any procession or otherwise is thereby regarded as having . . ."

MR. PRESIDENT :—" It refers only to custom."

THE HON. DR. P. SUBBARAYAN :—" You are mixing up sub-clause (2) which only talks of dancing before Hindu deities."

MR. PRESIDENT :—" The Hon. Minister will please listen to me. Section 3, sub-clause (3), is the clause which prohibits dancing and it only refers to dancing in any procession of a Hindu deity, idol or object of worship installed in any temple or institution or at any festival or ceremony held in respect of such a deity, idol or object of worship. But, it does not include marriage parties. Is that the idea? "

THE HON. DR. P. SUBBARAYAN :—" That is right, Sir. We felt that if it is drawn wide it might affect performances by amateurs and even so, of devadasis, which is allowed in the south. There are exponents of the art of Bharata Natyam which we do not want to prevent because of advancement of culture and that is why the clause had to be drafted in rather a careful manner as not to prevent these."

MR. PRESIDENT :—" Bogum-melam is a term which is exclusively used in connexion with marriages and festivals."

THE HON. DR. P. SUBBARAYAN :—" Yes, Sir, I understand it. I move that the Bill be taken into consideration at once."

MR. PRESIDENT :—" Did I disturb the trend of the Hon. Minister's speech? "

THE HON. DR. P. SUBBARAYAN :—" It is rather an unusual experience for the Speaker or President to intervene in the debate."

MR. PRESIDENT :—" You must get accustomed to it."

" The motion before the House is that the Madras Devadasis (Prevention of Dedication) Bill, 1947, as passed by the Assembly (Bill No. 21 of 1947), be taken into consideration at once."

DR. V. K. JOHN :—" Sir, I only ask for information whether all Hindu communities are affected because section 3 (2) says: ' Any custom or usage prevailing in any Hindu community such as the Bogum, Kalavanthula, Sani, Nagavasulu, Devadasi and Kurmapulu, etc.,' and not any other Hindu ccommunity? "

THE HON. DR. P. SUBBARAYAN :—" No, Sir, it is general. These are only examples of the communities which follow this kind of Bogum-melam and there are other communities also which are not mentioned here."

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DR. V. K. JOHN :—" Mr. President, Sir, I must congratulate the Government in introducing this social reform Bill, Sir, in any country a usage which was once prevailing and which later offended the moral consciousness of a community would have been ruled by a court of law as illegal. Sir, the Common Law of England is based on the decisions of Judges who are in intimate touch with the notions and ideas of people. Judges who gave decisions in accordance with the growing consciousness of the people. European Judges deciding questions of Hindu Law often held that customs which were considered by the community to be out-of-date are legal. I am quite sure if we had Judges who are in intimate touch with the people there would have been no need to introduce a Bill like this, because the Judges would have ruled this Devadasi system to be illegal. Sir, law is the idea of right or wrong in a community. The Judge ought to take note of it but our Judges have not taken note of it and so this Bill has been introduced. I congratulate the Government on having introduced this Bill because if the matter went to court, it might hold that the ancient custom is still legal. I am assured that the application of clause 3 (2) is not confined to any one community but to all the communities and if that is the intention of the Government, it is not very clear and it could have been made more clear. The hon. Mover has, however, assured me that the word ' usage ' is not confined to the communities enumerated and that the enumeration is not exclusive but only illustrative.

" Sir, another point I want to ask the Hon. Minister is, why in providing for penalty in clause 4, persons who are below the age of 16 are exempted. Clause 3 makes a particular custom of an act in pursuance of that custom illegal. Then we provide a sanction clause, that is, a clause which gives sanction for the provision in clause 3 which declares such a custom as illegal. Instead of the word ' penalty ' he could have used the word ' punishment,' but it does not however matter much. But then in providing for penalty or punishment, you say if he contravenes sections 3 and 4, the punishment is only for persons who are over 16 years of age. There may be some very good reason for that and of course Dr. Subbarayan will explain it at the end. I congratulate the Government once again on introducing this very good, perhaps long overdue, piece of social legislation."

* MRS. M. N. CLUBWALA :—" Mr. President, the popular Government has again merited the gratitude of hundreds of women, who though not due to any fault of their own, have been smarting under the yoke of worst humiliation and social ignominy. All women with a heart to feel have thought that the insult shown to the socially oppressed women has been one that affected all of them. The credit of having awakened the conscience of women, nay men too, to the existence of the evil of a separate class of women whose honour and character were exploited by the interested men, in the name of religion, goes to that great woman social worker and reformer, Dr. Muthulakshmi Reddi. We may

re-call that years ago, Dr. Reddi, through her indefatigable efforts, bringing about a similar measure enjoining the temples through the Religious Endowments Boards to discourage dedication of girls, but as the measure was not compulsory and as it did not provide any penalty for offenders, it could not go a long way in fulfilling Dr. Reddi's dream and by passing this Act we have crowned her tireless efforts in the sphere of reclamation of women. We are also very proud that our popular Ministry has taken the interest of women's cause to heart and therefore I think they have brought in this measure; we do feel very pleased about this because our leader's wishes have at last been fulfilled. I do hope that certain clauses which are not there, especially in connexion with nautches in Andhra districts, will later on be introduced. With these words I offer my thanks to the Government for bringing forward this most humanitarian measure."

SRI B. BHIMA RAO :—" Sir, I only want to say a few words in this connexion. Let me point out an important omission . . ."

THE HON. DR. P. SUBBARAYAN :—" Sir, I think my thoughts were rather disturbed by you, because I am not accustomed to interruptions by the Speaker or the President which is not the usual thing in any deliberative assembly, but as you have said I must learn new lessons, I am prepared to learn them, though I respectfully point out it is rather unusual.

" Sir, you will see that in clause 4 (2) . . ."

MR. PRESIDENT :—" I do not want to disturb you now; I will do it later."

THE HON. DR. P. SUBBARAYAN :—" In section 4, you will find that punishment is provided for what happens under section 3 (2). Therefore the sub-clause talks of a woman who takes part in any dancing or music performance in the course of any procession or otherwise is thereby regarded as having adopted a life of prostitution and so anybody who takes part in any procession is punished not under section 4 (1) which refers to section 3 (2), but under section 4 (2) which refers to section 3, sub-section (3). Section 4 (2) read thus :

' *Any person having attained the age of sixteen years who dances in contravention of the provisions of section 3, sub-section (3), or who abets dancing in contravention of the said provisions, shall be punishable with simple imprisonment for a term which may extend to six months or with fine which may extend to five hundred rupees or with both.*' "

MR. PRESIDENT :—" That does not meet my point."

THE HON. DR. P. SUBBARAYAN :—" It does. Even marriage processions will be part of any procession according to this section."

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MR. PRESIDENT :—" Section 4 says, ' Any person having attained the age of sixteen years, takes part in or abets the performance of any ceremony, etc. . . .' "

THE HON. DR. P. SUBBARAYAN :—" No, Sir. There are two sub-sections to clause 4. Clause 4 refers to sub-section (2) as well as sub-section (3). The punishment provided for in sub-section (2) is for any contravention of what is considered illegal in section 3. Therefore, any dance in a procession, even a marriage procession will be considered coming within the ambit of law and will be punished under clause 4, sub-section (1). Sub-section (3) to clause 3 says, ' Dancing by a woman, with or without *kumbhaharathy*, in the precincts of any temple or other religious institution, or in any procession of a Hindu deity, idol or object of worship . . .' and sub-section (2) talks of ' any procession or otherwise.' " 3-45 p.m.

MR. PRESIDENT :—" If the Hon. Minister will excuse me I do not want to take part in the discussion, but I may point out as a piece of information that there is no mention of procession in clause 4 (1)."

THE HON. DR. P. SUBBARAYAN :—" Clause 4 (1) refers back as I explained to clause 3 (2). ' Any person having attained the age of sixteen years who after the commencement of this Act performs, permits, takes part in, or abets the performance of any ceremony or act for dedicating a woman as a devadasi or any ceremony or, act of the nature referred to in section 3, sub-section (2), shall be punishable with simple imprisonment for a term which may extend to six months or with fine which may extend to five hundred rupees or with both.' "

MR. PRESIDENT :—" My object in interfering is only to understand in common with other members what we are doing. I cannot be idle; I take no pleasure in interfering in the measures that are being discussed. I really do not understand if it is the object to prevent processions or dances in marriages. I am of the opinion that they do not come under the provisions at all because clause 3 (2) refers only to the custom and not to the act. It only says that such a custom is wrong. The operative section is 3 (3) and not 3 (2)."

THE HON. DR. P. SUBBARAYAN :—" Clause 3 (2) is also made an offence."

MR. PRESIDENT :—" By that custom if anybody takes part in a dance then she is deemed to have dedicated herself to a life of prostitution. If taking part in any procession is such a custom then she is punished under clause 4 (1). If she takes part in any dance she is punishable under clause 4 (2). That is the difference. Dancing in a marriage is not mentioned."

SRI B. BHIMA RAO :—" You are quite correct in your interpretation, Sir, though it is unusual for a President to take part in the proceedings. The Hon. Minister is agreeable to make the provisions of this Bill apply to marriage processions or marriage

occasions. That is what I see from the reply that he has given. He refers to sub-section (2) of section 3. The word 'procession' is there. There is a procession for the purpose of dedicating the girl to a life of prostitution. We have seen such a procession going in front of our houses and feeling ashamed at this practice. Sub-section 3 (2) prohibits such acts. Sub-section (3) only limits the application to dances in a religious institution or in the course of a procession of a Hindu idol. It does not include, Sir, marriage processions or marriage occasions when such dances are arranged by those responsible for the performance of marriages. I submit that my friend has limited the Bill only to processions for dedication of women as devadasis. If that is so, sub-section (3) may not have to be in there. I have known of dances on the occasion of marriage or marriage processions. They are equally abhorrent to public morals and they should be put an end to and if my friend is agreeable to such a course, he should also include that in sub-section (3) 'or on occasions of marriage.' The Legislative Assembly is meeting on the 9th and you can include that expression and see that it is pased into law again. We are glad that you have pointed out this omission, Sir."

* THE HON. SRI K. MADHAVA MENON :—" With due deference to Mr. Bhima Rao, clause 3, sub-section (2) declares certain things as void and unlawful and section 4, sub-section (1), provides the punishment for doing any unlawful acts which are declared. The question which you have raised and Mr. Bhima Rao has supported that marriage processions are not included there, I beg to submit, Sir, is not correct. During dancing or music performance or any procession; if there is a custom of having a particular set of dances, this comes, Sir. It says: 'Any custom or usage prevailing in any Hindu community such as the Bogum, Kalavanthula, Sani, Nagavasulu, Devadasi and Kurmapulu, that a woman of that community who gives or takes part in any melam (nautch), dancing or music performance in the course of any procession or otherwise is thereby regarded as having adopted a life of prostitution and becomes incapable of entering into a valid marriage, and the performance of any ceremony or act in accordance with any such custom or usage, whether before or after the commencement of this Act and whether, the woman concerned has consented to such performance or not, are hereby declared unlawful and void.' If dancing in a marriage procession is such a custom, then that is declared void by this."

MR. PRESIDENT :—" I will give you my difficulty. Any custom by which a woman who gives or takes part in any melam, dance or music performance in the course of any procession or otherwise is thereby regarded as having adopted a life of prostitution is declared unlawful. That is what sub-section (2) says."

* THE HON. SRI K. MADHAVA MENON :—" No, Sir."

MR. PRESIDENT :—" The emphasis is on the custom. In the ordinary marriage melam, there is no such custom there.

Nobody can say that, because she danced in the marriage, she has adopted a life of prostitution. Clause 3 (2) says that any custom by which she takes part in any dance or ceremony means that she has adopted a life of prostitution. Such a custom is wrong and the act itself is not prohibited."

* THE HON. SRI K. MADHAVA MENON :—" If it is the custom to dance before marriage processions, then it comes within this."

SRI M. NARAYANA MENON :—" Sir, sub-section (2) of clause 3 says that there is a custom in some communities and that custom is this. If a woman dances or does a music performance before any procession, she is regarded under that custom as having adopted a life of prostitution and becomes ineligible for marriage. The section says that such a custom is unlawful and void. There is also another part of that custom that is to perform a ceremony whereby she may be regarded to have dedicated herself to a life of prostitution, and under the section that ceremony also is unlawful. Now this section means that, dancing before a marriage procession is certainly not an offence, but it is the custom that is unlawful renders the women dancing before a marriage procession incapable of marrying. Dancing before a marriage procession, it is not prevented by this Act at all. It is the custom that is unlawful and not dancing or singing before a marriage procession which are lawful. It is just contrary to what the mover has stated."

THE HON. DR. P. SUBBARAYAN :—" I have considered the objections that have been raised. The section was carefully drafted due to the fact that there are professional dancers whose professional act we did not want to take away. We only wanted to prevent their leading a life of prostitution. Now take an artist who gives Bharatanatyam performance. She may be very good, her art and culture may be appreciated. So it is not possible to put a general clause as you want."

MR. PRESIDENT :—" I do not want you to put a general clause. I only wanted to know your intention."

THE HON. DR. P. SUBBARAYAN :—" I will explain why it is not possible. This legislation should not cut at the root of art and culture. Such things have been appreciated in Tamilnad and I was told in the Andhra Desa also. This culture has come down to us from generations past, from the Pandya, Chola, Chera and Pallava Kings. These things should not be killed in our jealousy for social reform."

MR. PRESIDENT :—" I do understand that point, but the fact remains that certain people do follow that procession and dance in marriage processions and it is not prohibited."

THE HON. DR. P. SUBBARAYAN :—" Does it mean that I can prevent prostitution? But those people may have no other profession by which they can earn a living. If that is what is really wanted, personally I would be averse to passing a legislation of that kind."

MR. PRESIDENT :—" The Minister is confusing."

* SRI R. SURYANARAYANA RAO :—" The Home Member should reconsider the position in the light of this discussion. The Assembly is meeting again. We, laymen, on this side think that there is something in what you say, especially with regard to section 3 (2)."

4 p.m MR. PRESIDENT :—" After all it is Government's business. I just wanted to understand the scope and extent of the Bill. I have to inform hon. Members that others came to me for interpretation of the Bill passed, what its implications are and so forth as if I am here to explain all that. That is just why I wanted to know what it was."

DR. V. K. JOHN :—" Sufficient attention has not been paid to the words referred to in sub-section (2) of section 3, and the intention of the draftsman."

MR. PRESIDENT :—" The wording used is 'act in accordance with any custom or usage'; these refer to ceremonies connected with dedication and there are so many ceremonies preliminary to it and the intention is that if any person goes, participates in or performs such ceremonies, that is punishable. If that is the intention of Government, the wording is perfectly all right. And my question was whether that was the intention of Government."

The motion was put and carried and the Bill was taken up for consideration.

Clauses 2 and 3 were put one by one and carried.

DR. V. K. JOHN :—" I wish to draw attention to one fact. Now that Dr. Subbarayan is piloting the Bill, I wanted to bring it to the notice of Government. Under section 109 of the Indian Penal Code, an abetment is punishable just like the main offences. And under sections 40 to 42 of the Indian Penal Code, any local or special law is brought under section 109. This is a special law and a local law is one which is in force in one part of British India and now one part of the Indian Union. Now this is a local law as well as a special law and sections 40 to 43 of the Indian Penal Code and section 109 of that Code apply and whatever punishment is provided for a major offence also applies to abetment."

MR. PRESIDENT :—" What is the harm if there is mention of it here in this enactment?"

DR. V. K. JOHN :—" I only wanted to bring to the notice of Government that it has been enacted in the various enactments that have come up before this House. There is no harm in it but it does not seem necessary. It seems to be a case of superabundance of caution but it is not necessary."

THE HON. DR. P. SUBBARAYAN :—" Mr. President, my learned friend is as aware of the General Clauses Act, the Evidence Act and the Penal Code which of course bring in special laws.

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But legislators usually are very cautious. Out of abundant caution this is done and my hon. Friend will also find that even though the General Clauses Act may provide for such things, even in Parliamentary legislation, they do take care to provide for abetment as well in the clauses of the Bill. My hon. Friend may be correct in his interpretation but there is no harm in being cautious and I do not see there is any harm."

DR. V. K. JOHN :—" There is no harm but only there is no necessity."

Clauses 4, 5 and 1 were put one by one and carried.

The preamble was put and carried.

THE HON. DR. P. SUBBARAYAN :—" Sir, I now move—

'*that the Bill be passed into law.*'

" I quite realize the difficulties which you have raised and which other hon. Members have pointed out. Mr. Suryanarayana Rao as an ardent social reformer seems to have been very keen that I should take this measure back to the lower House and bring it back again with the amendment that you have suggested. In spite of being a social reformer, I belong to the cautious variety and therefore, I do not want to do anything which might detract from what I said in connexion with the point you raised. This Bill will of course become law and when it is applied and when there are decisions of the court and we find that it is not working in the manner that hon. Members desire, that will be time to think of amendments. To make it as wide as hon. Members want, I am afraid, will be taking a rather dangerous path which might lead us into positions which the Legislature and the members did not really think or conceive of now.

" There is one more point that I have to answer. You should not punish any person under 16 because they have no right of discretion and might be misled by others and they will be punished. To punish people under 16 will be against all ideas of jurisprudence which my hon. Friend Dr. John understands as well as I."

The motion was carried and the Bill was passed into law.

(5) THE MADRAS MARUMAKKATTAYAM (AMENDMENT) BILL, 1947 (L.A. BILL NO. 39 OF 1947).

* THE HON. SRI K. MADHAVA MENON :—" Mr. President, I move—

'*that the Madras Marumakkattayam (Amendment) Bill*[a], *1947 (L.A. Bill No. 39 of 1947) as passed by the Legislative Assembly be taken into consideration at once.*'

" Many hon. Members of this House may not exactly know what this is for; but this is a matter which vitally affects the people of Malabar who follow the Marumakkattayam law. Hon. Members may be aware that the custom among the people then prevailing

[a] Printed as Appendix V on page 129 infra.